

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:23-CV-143-RJC-DCK**

ANTONIO WALKER,

Plaintiff,

v.

SEA BAR, LLC,

Defendant.

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ORDER

THIS MATTER IS BEFORE THE COURT on “Defendant’s Motion To Dismiss Plaintiff’s Complaint” (Document No. 6) filed April 28, 2023. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion, the record, and applicable authority, the direct that the pending motion to dismiss be denied as moot.

STANDARD OF REVIEW

Federal Rule of Civil Procedure 15 applies to the amendment of pleadings and allows a party to amend once as a matter of course within 21 days after serving, or “if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed.R.Civ.P. 15(a)(1).

In this case, Plaintiff timely-filed a “Notice of Filing Amended Complaint” (Document No. 7) and an “Amended Complaint...” (Document No. 8) on May 12, 2023. The undersigned further notes that Defendant subsequently filed a “...Motion To Dismiss Plaintiff’s Amended Complaint” (Document No. 9) on May 25, 2023.

It is well settled that a timely-filed amended pleading supersedes the original pleading, and that motions directed at superseded pleadings may be denied as moot. Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001) (“The general rule ... is that an amended pleading supersedes the original pleading, rendering the original pleading of no effect.”); see also, Fawzy v. Wauquiez Boats SNC, 873 F.3d 451, 455 (4th Cir. 2017) (“Because a properly filed amended complaint supersedes the original one and becomes the operative complaint in the case, it renders the original complaint ‘of no effect.’”); Colin v. Marconi Commerce Systems Employees’ Retirement Plan, 335 F.Supp.2d 590, 614 (M.D.N.C. 2004) (“Earlier motions made by Defendants were filed prior to and have been rendered moot by Plaintiffs’ filing of the Second Amended Complaint”).

Based on the Amended Complaint and Defendant’s revised motion to dismiss (Document No. 9), the original motion to dismiss (Document No. 6) is now moot.

IT IS FURTHER ORDERED that “Defendant’s Motion To Dismiss Plaintiff’s Complaint” (Document No. 6) be **DENIED AS MOOT**.

SO ORDERED.

Signed: May 25, 2023



David C. Keesler
United States Magistrate Judge

